

AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO PUBLIC STREET FESTIVALS AND SPECIAL EVENTS

Be it ordained by the City Council of the City of Salisbury, North Carolina, as follows:

SECTION 1. That Article VI, Chapter 22 of the Code of the City of Salisbury be stricken in its entirety and replaced with the language that follows:

ARTICLE VI. - PUBLIC STREET FESTIVALS AND SPECIAL EVENTS WITHIN THE MUNICIPAL SERVICE DISTRICT

Sec. 22-150. - Definitions.

For purposes of this section, the following events shall be defined as:

General Events shall mean organized activities that have a stationary footprint not requiring temporary right-of-way closure often involving sound amplification, food, beverage, merchandise, or other forms of entertainment. Examples include festivals, markets, and ceremonies.

Neighborhood Events shall mean small-scale organized activities that close local-service residential right-of-ways. These gatherings are initiated by local residents and are intended only for the neighborhood residents and their guests and may be held on public areas.

Organized Activity shall mean an activity or event defined herein as a General Event, Neighborhood Event, Special Event, or Parades, Races, and Walks but not meeting the definition of a Public Street Festival.

Parades, Races, and Walks shall mean organized activities following a set course that involve full or partial right-of way -closure with 10 or more persons and/or three or more vehicles in participation.

Public Street Festivals shall mean organized events, whether held by non-profit, community or for-profit organizations, where alcoholic beverages may be sold and regulated under section 22-151 or section 22-152 and held within public rights-of-way and on city owned property as designated in a "Public Street Festival Permit.

Special Event shall mean activities conducted in public areas which (i) are engaged in by ten (10) or more people and (ii) are not Demonstrations. The term Special Event shall be construed to include a-private organization celebration or sponsored event that is held in or on public areas that may require temporary right-of-way closure.

Other definitions shall be defined as:

Event Organizer or shall mean the person who organizes, conducts, or intends to conduct a general, neighborhood, special, or parade, race or walk event and is responsible under a permit for ensuring the activity will be conducted in accordance with these regulations.

Fees shall mean the cost paid by the organizer or sponsor for application, use of City of Salisbury services, and other city incurred expenses to hold organized activities.

Food service establishment shall mean an establishment engaged in the business of regularly selling food, customarily, but not exclusively, to be eaten on the premises, including businesses that are commonly referred to as restaurants, cafes, grills and other establishments that have a food counter where food is sold.

Malt beverage shall mean beer, lager, malt liquor, ale, porter, or any other brewed or fermented beverage containing at least one-half of one (.5) percent and not more than fifteen (15) percent alcohol by volume.

Open container shall mean a container whose seal has been broken or a container other than the manufacturer's unopened original container.

Parks shall mean publically maintained recreation or park facility

Person shall mean any person, firm, corporation, partnership, association or other organization, whether formal or informal.

Public Area shall mean streets, sidewalks, alleys, lanes, walkways, highways, right of way, greenways, plazas, or squares owned or maintained by any governmental entity.

Temporary Right-of-Way Closures shall mean closing or restricting vehicle or foot traffic by blocking customary use of any public street or sidewalk for any reason other than an Organized Activity as defined herein.

Unfortified wine shall mean wine that has an alcoholic content produced only by natural fermentation by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not more than sixteen (16) percent alcohol by volume.

Winery shall mean an establishment regularly engaged in the manufacture, sale or marketing of wine.

Sec. 22-151. - Issuance of Permits.

- a) Permits may be approved by the Salisbury Police Department upon meeting the following requirements:
- (1) A written application for a Public Street Festival, including street closures, must be submitted to the Salisbury Police Department at least sixty (60) days prior to the proposed Public Street Festival. A detailed site map indicating, at a minimum, the stage area, concessions, tables and seating area, parking areas and locations where the road may be blocked off shall also be required. A copy of the application and permit shall be submitted and retained by the office of the city clerk.
 - (2) A statement of the event organizer intent whether to serve or to allow the consumption of beer and wine. If serving alcoholic beverages, the event organizer must comply with all applicable ABC laws and regulations and an ABC permit must be obtained, and a copy provided to the City of Salisbury, no less than fifteen (15) days prior to the event. The event organizer's ABC permit must be in good standing and the applicant must not have been cited for any violation of its ABC permit for the premises within the previous three-year period. If the event organizer has been cited, the event organizer must provide a statement describing the circumstances for which it was cited and describing what, if any, penalty was imposed for the incident; and
 - (3) The event organizer's plan must also indicate that festival area must be maintained, and all debris or refuse removed from the area, at regular intervals during the business day so as to maintain an orderly appearance and to prevent the attraction of vermin, insects, or other pests to the area. The plan must also indicate that the event organizer must maintain an unobstructed path for pedestrian travel on the sidewalk at least five (5) feet wide at all times and that the event organizer agrees to remove all obstructions and additions to the festival area immediately upon completion of the festival in order to open the streets to public use as soon as possible; and
 - (4) The event organizer agrees that at no time shall anyone be allowed to block access to a fire hydrant in street festival area. Fire hydrants and first-aid stations shall be designated on the site plan for permitted events; and
 - (5) The event organizer, or an authorized officer or member if the event organizer is not an individual, must sign an agreement to indemnify and hold the City of Salisbury harmless from any and all claims of property damage, personal injury or death arising from or related to the provision of outdoor table service at the establishment; and
 - (6) Certificate of insurance indicating that the event organizer has, or will have, in place for the duration of the permit period, liability insurance with a minimum limit of one million dollars (\$1,000,000.00) for the premises and all activities conducted thereon.
- b. In the review of street festival permit requests, the police department shall be guided by the following considerations:
- (1) The number of permits issued and the area or areas for which such permits are issued in relation to crowd density, traffic control, the ability to protect persons and property, fire prevention and control, general safety and availability of city assets and resources to ensure the reasonable protection of the general public.

- (2) In those instances in which the police chief, or designee, considers city resources to be insufficient to meet the above considerations, the police chief, or designee, may require the event organizer for such permit to provide, at the event organizer's expense, adequate and qualified security personnel for the duration of the permit.
- (3) The police chief, or designee, shall have the authority to designate the boundaries of any permit request area. To accommodate such an event, the police chief, or designee, is further authorized to temporarily close any public streets, sidewalks or other city owned areas within the boundaries so designated in the permit application. Where such streets, sidewalks, or other city owned areas are temporarily closed, they shall be for the general use of the public.

Sec. 22-152. - Sale of alcoholic beverages permitted at Public Street Festivals.

It shall be lawful for a Public Street Festival permittee to serve or sell malt beverages and unfortified wine where the boundaries of the area in which such beverages is clearly delineated, where access to such area is restricted to persons who shall be at least twenty-one (21) years of age and where the following requirements are met:

All applicable health and ABC laws are complied with;

- (1) The contents of beer bottles, cans, wine bottles or any other unopened container shall be poured into appropriate plastic cups or plastic glasses; or sold in, and consumed from, its original container provided the original container is not made of glass; and
- (2) One (1) or more representative of the organization selling alcoholic beverages under an appropriately issued special one-time ABC permit has been certified by the North Carolina ABC board's "Be a Responsible Seller" program;
- (3) All empty bottles and cans shall be handled in such a way as to not be broken or left on city property; and
- (4) Peace and order shall be maintained during the event and the area left in a clean condition.

Sec. 22-154. - Firearms.

Except for sworn certified law enforcement personnel, the possession of firearms in any event area is prohibited except as allowed by law.

Sec. 22-155. - Signs for Events.

Promotional signage for events shall comply with the provisions of Chapter 12, Signs, of the Salisbury Land Development Ordinance.

Sec. 22-156. - Penalty—Conflict.

Any violation of this article shall constitute a misdemeanor, punishable as provided in North Carolina General Statutes Section 14-4. A first violation of an event permit issued pursuant to this article shall result in the issuance of a written warning to the permittee. A second violation within one year of the first shall result in an immediate revocation of the permit and a sixty-day ban on future permits. Additionally, a violation of any of the provisions of this article shall subject the offender to a civil penalty of up to five hundred dollars

(\$500.00). If a person fails to pay this penalty within ten (10) days after being cited for a violation, the City of Salisbury may seek to enforce this section through any appropriate equitable action. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense. The City of Salisbury may seek to enforce this article by using any one, or a combination, of the foregoing remedies.

In the event of a conflict between the provisions of this article and any other city ordinance, the provisions of this article shall control. The enactment of this article, however, shall not result in any change of the general applicability of any other city ordinance.

Sec. 22-157 – Fees

There shall be paid, at the time of filing the application for a permit required in this division, a fee of fifty dollars (\$50)

SECTION 3. That all ordinances, or the parts of ordinances in conflict with this ordinance, are hereby repealed to the extent of such conflict.

SECTION 4. That this Ordinance shall be effective upon adoption by the City of Salisbury from and after is passage.